

**Before the State of South Carolina  
Department of Insurance**

In the matter of:

File Number 2004-122117

James Follin Smith  
3 Broad Street, Suite 300  
Charleston, South Carolina 29401

**Consent Order  
Imposing Administrative Penalty and  
Probationary Period**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and James Follin Smith, a licensed South Carolina resident insurance producer.

Upon review of this matter, I hereby find as fact, that James F. Smith, while licensed to do business as a resident insurance producer, adjuster/ surplus line broker within the State of South Carolina for various Insurance companies, did write insurance policies through an unlicensed entity, Inland and Marine Insurance Group, LLC. Mr. Smith acknowledges this and contends this failure resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. Nevertheless, these actions can ultimately lead to the revocation of his license to transact the business of insurance as a producer in South Carolina following a public hearing at the Administrative Law Court.

Prior to the initiation of any administrative proceedings by the Department against him, James F. Smith and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that Mr. Smith would waive his right to a public hearing, and immediately pay an administrative penalty through the Department in the total amount of \$3,500. In lieu of seeking to revoke Mr. Smith's insurance licensing privileges, the Department would also place him on probation for two years.

Sections 38-45-140 and 38-43-130 of the South Carolina Code grant the Director of Insurance the power to revoke an insurance producer's license for violating any of South Carolina's Insurance Laws.

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that James Follin Smith has violated S.C. Code Ann. Section: 38-43-30 (Supp. 2003). As a result, I can now revoke all of his insurance licensing privileges. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130(Supp. 2003), and after carefully considering the recommendation of the parties, I hereby impose against Mr. Smith an administrative penalty in the amount of \$3,500.00 dollars, and place him on a Probationary Period of two years. If Mr. Smith is found to be in violation of any of the State's insurance laws

within that probationary period, all of his licensing privileges will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration of the fact that this was the first complaint filed against Mr. Smith, and of his assurances that in the future he will comply with all of the State's insurance laws. The parties expressly agree and understand that this resolution constitutes full accord and satisfaction of this matter. By his signature upon this consent order, Mr. Smith acknowledges that he understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, et seq. (1991 and Supp. 2003).

Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2003).

It is, therefore, ordered that James Follin Smith shall pay through the Department an administrative fine in the total amount of \$3,500 dollars and be placed under a period of two years Probation.


It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mr. Smith's licensing file.

This order becomes effective as of the date of my signature below.

January 31, 2005, at  
Columbia, South Carolina

  
Gwendolyn Fuller McGriff  
Deputy Director

I CONSENT:

  
James Follin Smith  
3 Broad Street, Suite 300  
Charleston, South Carolina 29401.

Dated this 19<sup>th</sup> day of January, 2005.